

REMARKS

In the Non-Final Office Action mailed on April 9, 2004, the Examiner reviewed claims 1-20. The Examiner rejected each of these claims and objected to claims 2-8 and 10-15. Applicant believes all of its currently pending claims, claims 1-20 and new claims 21-22, to be in condition for allowance.

Claim Objections

The Examiner rejected claims 2-8 and 10-15 due to inconsistencies between the preamble of the independent claims and the preamble of the dependent claims. Applicant has addressed this objection. Accordingly, these claims are no longer objectionable.

Claims Rejections - 35 U.S.C. §102

The Examiner rejected claims 1-4, 6-11 and 13-20 as anticipated by *Kameda, et al.* Applicant believes these claims to be in condition for allowance. Specifically, with respect to claim 1, claim 1 requires “a memory unit...storing a cancellation waveform...wherein said control unit has a plurality of scaling factors to modify said cancellation waveform.” The Examiner contends that this feature is shown by *Kameda, et al.* However, *Kameda, et al.* does not teach the storing in memory of a cancellation waveform but instead teaches the storing in memory of information used to construct a waveform. Indeed, Figure 2 makes evident that the waveform is generated rather than stored in memory as waveform generation is performed by “waveform generating circuit 16C.”

As noted further in *Kameda, et al.*:

The waveform generating circuit 16C generates a waveform that has been adjusted in phase and sound pressure.

Because *Kameda, et al.* does not teach the storing of a cancellation wave form in memory, claim 1 is in condition for allowance.

In addition, *Kameda, et al.* also does not teach “a plurality of scaling factors” to modify said cancellation waveform. The Examiner contends that Figures 4A and 4B, as well as a portion of the specification of *Kameda, et al.* teach such a factor. However, the cited portions of the reference teach the use of a map or chart that stores data in rows and columns. There is no showing of a scaling factor used to modify a cancellation waveform in *Kameda, et al.* For this additional reason, claim 1 is in condition for allowance. Therefore, claim 1 and its dependents, 2-8, should be allowed.

Claim 6 ultimately depends upon claim 1. It is allowable for this reason alone. In addition, claim 6 requires, “said control unit is programmed to select a scaling factor from said plurality of scaling factors based on data from said throttle position sensor.” Again, *Kameda, et al.* does not teach a scaling factor. Moreover, *Kameda, et al.* does not teach the selection of a scaling factor based on data from a throttle position sensor. The Examiner contends that column 9, lines 43-57 of *Kameda, et al.*, teach this feature. However, there is no indication within the cited portion that data from a throttle position sensor is used to adjust by scaling a cancellation waveform. At best, this transcript only indicates that information from such a sensor may be used to select map data. For this reason, claim 6 is separately allowable.

Independent claim 9 was also rejected pursuant to *Kameda, et al.* under 35 U.S.C. §102(b). Claim 9 requires in pertinent part that the waveform data stored in memory comprise “at least one cancellation waveform related with engine data.” Again, *Kameda, et al.* does not teach the storing

of an actual waveform. It also does not teach the storing of that waveform related with engine data.

For this reason, claim 9 and its dependents, claims 10-15, stand in condition for allowance.

Independent claim 16 has been amended. Claim 16 now requires, “delaying transmission of the cancellation waveform data a predetermined amount of time to accommodate for a time taken to retrieve the cancellation waveform data.” This feature is not taught by *Kameda, et al.* Accordingly, claim 16 and its dependents, claims 17-20, stand in condition for allowance.

Claim 20 further requires, “the step of scaling the cancellation waveform data.” Again, this feature is not shown by *Kameda, et al.* For this reason, claim 20 is separately allowable.

New Claims

Applicant has added new claims 21 and 22. New claim 21 requires, “said plurality of scaling factors are set to modify an amplitude of said cancellation waveform.” There is no teaching of this feature in *Kameda, et al.* Therefore, claim 21 is in condition for allowance.

Claim 22 depends upon the method claim 16. It is allowable for this reason alone. In addition, claim 22 requires, “the predetermined amount of time is longer than the time taken to retrieve the cancellation waveform data.” Again, this feature is not shown by *Kameda, et al.* Therefore, claim 22 is in condition for allowance.

For the foregoing reasons, Applicant requests allowance of claims 1-22.

Applicant believes that additional fees in the amount of \$36.00 are required for two claims in excess of twenty. A check in the amount of \$36.00 is enclosed. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

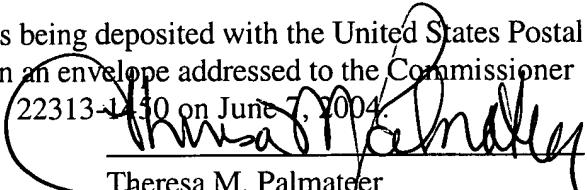


June 7, 2004
Date

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CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on June 7, 2004.



Theresa M. Palmateer